

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No: EB-10-MA-0140
Antonio Robinson)	
)	NAL/Acct. No: 201132600005
Miami, Florida)	
)	FRN: 0020835781
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 4, 2011**Released: May 5, 2011**

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Antonio Robinson ("Mr. Robinson") apparently willfully and repeatedly violated section 301 of the Communications Act of 1934, as amended ("Act"),¹ by operating an unlicensed radio transmitter on the frequency 105.5 MHz from his commercial suite in Miami, Florida. We conclude that Mr. Robinson is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On June 29, 2010, and again on July 19, 2010, agents from the Enforcement Bureau's Miami Office ("Miami Office") used direction-finding techniques to locate the source of radio frequency transmissions on the frequency 105.5 MHz to a commercial building at 20401 NW 2nd Ave, Miami, Florida. On July 19, 2010, the agents determined that the signals exceeded the limits for operation under Part 15 of the Commission's rules ("Rules"),² and therefore required a license. Commission records showed no authorization issued to Mr. Robinson, or for any operation of an FM broadcast station on this frequency, at or near this address.

3. Also, on July 19, 2010, agents from the Miami Office inspected the unlicensed radio station located in Suite 207, a commercial suite rented by Mr. Robinson, and found Mr. Robinson was the only person present. By tracing the coaxial cable from the antenna into the suite, agents found the unlicensed transmitter in the ceiling of Suite 207. The transmitter's display read 105.5 MHz. Florida state corporation records list Mr. Robinson as the owner of a business, "Hittbreaker Worldwide DJ's," with the same Suite 207 address. The telephone number provided by Mr. Robinson to the agents at the time of the inspection matched a telephone number listed on a webpage for "Hittbreaker Radio 105.5 FM."³

¹ 47 U.S.C. § 301.

² Part 15 of the Rules sets out the conditions and technical requirements under which certain radio transmission devices may be used without a license. In relevant part, section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 µV/m at three meters. 47 C.F.R. § 15.239.

³ See www.myspace.com/djsshowtimemiamifranchise, visited July 20, 2010.

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.⁴ The term “willful” as used in section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.⁵ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁶

5. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act.⁷ On June 29, 2010, and again on July 19, 2010, Mr. Robinson operated an unlicensed radio station on the frequency 105.5 MHz from a leased commercial suite in Miami, Florida. A review of the Commission’s records revealed that Mr. Robinson did not have a license to operate a radio station on this frequency at this location. Because Robinson consciously and deliberately operated the station, we find the apparent violation willful. Because the operation occurred on more than one day, the apparent violation was repeated. Based on the evidence before us, we find that Mr. Robinson apparently willfully and repeatedly violated section 301 of the Act by operating radio transmission equipment without the required Commission authorization.

6. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for operation without an instrument of authorization is \$10,000.⁸ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁹ Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Mr. Robinson is apparently liable for a forfeiture in the amount of \$10,000.

⁴ 47 U.S.C. § 503(b).

⁵ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act....” See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁶ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

⁷ 47 U.S.C. § 301.

⁸ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 503(b)(2)(E).

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314, and 1.80 of the Rules, Antonio Robinson is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violation of section 301 of the Act.¹⁰

9. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Antonio Robinson **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture must be made by credit card, check, or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 270000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹¹ For questions about payment, contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Antonio Robinson shall also send an email notification to SCR-Response@fcc.gov on the date said payment is made.

11. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. The written statement shall be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Miami Office, P.O. Box 520617, Miami, FL 33152-0617, and must include the NAL/Acct. No. referenced in the caption. Antonio Robinson shall also email the response to SCR-Response@fcc.gov.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Antonio Robinson at 20401 NW 2nd Ave, Suite 207, Miami, Florida 33169.

¹⁰ 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80.

¹¹ See 47 C.F.R. § 1.1914.

FEDERAL COMMUNICATIONS COMMISSION

Stephanie Dabkowski
Resident Agent
Miami Office
South Central Region
Enforcement Bureau